

IN UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Taylor, Patrick, and Company, BANK OF CHARLESTON,
Administrator of the Estate of Altha M. Patrick,
deceased, appellants

versus

UNITED STATES OF AMERICA, APPELLEE

On Appeal From The Judgment of The United States
District Court For The Western District of
South Carolina

APPENDIX TO THE BRIEF FOR THE APPELLANT

[fol. 2]

parties whereby Talbot Patrick purchased the stock interest of Paula M. Patrick and agreed to transfer the stock equally to the children prior to any sale of same and agreed also that upon his death the stock would automatically go to the children. The plan also provided that Talbot Patrick and Paula M. Patrick would both transfer their interest in the property at 132-138 West Main Street, Rock Hill, South Carolina, to a trust; that the trust would lease the property to the Herald Publishing Company for a term of ten years with options for renewal and the privilege of conversion. The plan aforesaid, as to the transfer of stock, was incorporated in paragraph 6 and, as to the real estate trust, in paragraph 10 of an amended stipulation and agreement between the parties which is attached hereto.

11. The firm of Boyd, Bruton & Lumpkin of Columbia, South Carolina, who at the time represented Paula M. Patrick, charged a fee of Twelve Thousand and No 100 (\$12,000.00) Dollars for services in connection with the divorce action. Mr. C. W. E. Spence, Jr., and Mr. Charles B. Ridley, both of Rock Hill, South Carolina, representing taxpayer Talbot Patrick, also charged a fee of Twelve Thousand and No 100 (\$12,000.00) Dollars.

13. Talbot Patrick suggested to the stockholders that two-thirds of the legal fees, or Eight Thousand and No 100 (\$8,000.00) Dollars to the attorneys for each of the two parties, Sixteen Thousand and No 100 (\$16,000.00) Dollars altogether, be paid by the corporation.

14. All parties agreed thereto with the understanding that if the Internal Revenue Service did not allow the legal fees in question as a proper corporate expense, Talbot Patrick would repay the same to the corporation. This understanding was oral except in the case of Hugh Patrick who was in Ann Arbor, Michigan, and who telegraphed his understanding of the agreement. A copy of his telegram is attached hereto and made a part hereof. [fol. 7]

15. In January, 1939, Herald Publishing Company was advised by one Richard F. Murphy, Agent of the Internal Revenue Service, that the legal fees were not a proper corporate expense. Talbot Patrick, pursuant to the aforementioned understanding, repaid the sum of Sixteen Thousand and No 100 (\$16,000.00) Dollars to the

issues, concerning which mutual agreement could be reached. Pending completion of such negotiations, the action was held in abeyance and the Defendant's time in which to answer was extended. As a result of the negotiations aforesaid, the parties Plaintiff and Defendant entered into a Stipulation and Agreement dated April 17, 1956. Thereafter further negotiations ensued and the parties Plaintiff and Defendant have and do hereby mutually agree as follows:

1. That the within Amended Stipulation and Agreement completely supersedes and replaces in its entirety the Stipulation and Agreement dated April 17, 1956, which shall henceforth be null, void, and of no further force and effect, and shall be withdrawn from the record in this proceeding.
2. That the Defendant shall convey to the Plaintiff in fee and undivided one-half the former family residence property located at 637 Oakwood Lane in Rock Hill, S. C. Simultaneously the Plaintiff shall convey to the Defendant by quit-claim deed her interest in the earlier family dwelling house at 31 Saluda Street in Rock Hill, S. C.
3. That the Plaintiff owning a one-fifth interest therein and the Defendant owning a four-fifths interest therein shall enter into a joint conveyance of the real estate in Rock Hill, S. C. at 132-6 W. Main Street, occupied by the Herald Publishing Company, and at 138 W. Main Street, occupied by Royal Crown Cola Bottling Company, the title to such real estate to be thereby transferred to the Peoples' National Bank of Rock Hill, S. C., in TRUST NEVER-TRUSTLESS to hold, manage, maintain and control the same, with full power of sale for change of investment in conjunction with any sale of the entire stock or major assets of the Herald Publishing Company at a sale price to be determined by agreement with a majority of the then adult beneficiaries of the trust, and in the meantime to pay the net income therefrom, after deduction of all reasonable [fol. 10] costs properly chargeable against the Lessor for repairs, upkeep, maintenance, insurance, taxes, trustees fees and other necessary costs, to Paula M. Patrick, as the same shall accrue, for and during the term of her natural life, and upon her death, to continue the trust in